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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,893	10/27/2000	Morey Kraus	07588/008001	5973
21559	7590	11/06/2007		
CLARK & ELBING LLP 101 FEDERAL STREET BOSTON, MA 02110			EXAMINER FALK, ANNE MARIE	
			ART UNIT 1632	PAPER NUMBER
			NOTIFICATION DATE 11/06/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentadministrator@clarkelbing.com

Interview Summary	Application No.	Applicant(s)	
	09/698,893	KRAUS ET AL.	
	Examiner	Art Unit	
	Anne-Marie Falk, Ph.D.	1632	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Anne-Marie Falk, Ph.D. (3) Todd Armstrong.
 (2) Paul Clark. (4) _____

Date of Interview: 23 October 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference

c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____

Claim(s) discussed: pending claims.

Identification of prior art discussed: none.

Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See continuation sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Anne-Marie Falk
 ANNE-MARIE FALK, PH.D
 PRIMARY EXAMINER

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Art Unit: 1632

Continuation Sheet (PTOL-413)

A proposed amendment (see attached) was received, but was not discussed during the interview.

Discussed the enablement rejection, particularly as it pertains to which cells were used in the working example carried out in rats and the meaning of the term CD34+/- . Applicants argued that the cells used in the rat example were human cells and that one of skill in the art would understand that they were human cells based on the disclosure of U.S. Patent 5,925,567. However, the Examiner did not find support in the '567 patent that would demonstrate that the cells administered to the rats in the working example of the present application were in fact human cells. Applicants did not point to anything specific in the '567 patent as support, but instead stated that the entire patent pertains to human cord blood cells and that the patent is incorporated by reference. Applicants further asserted that the term "CD34+/-" is conventional in the art and that the skilled artisan would understand that it refers to either the presence or absence of CD34. The Examiner responded that no evidence has been submitted showing that the term is conventional in the art and therefore, absent a definition, one of skill in the art would not know the intended meaning of the term. Accordingly, the skilled artisan would not know which cells to use in the claimed invention or how to obtain them. Likewise, the skilled artisan would not know which cells were used in the rat working example. Applicants concluded by stating that they will appeal the rejections of record to the Board of Patent Appeals and Interferences.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Morey Kraus et al.	Art Unit:	1632
Serial No.:	09/698,893	Examiner:	Anne Marie Falk
Filed:	October 27, 2000	Customer No.:	21559
Title:	METHODS FOR IMPROVING CENTRAL NERVOUS SYSTEM FUNCTIONING		

PROPOSED AMENDMENT

In response to the final Office Action mailed on April 23, 2007, Applicants submit the following proposed claim amendment for consideration by the Examiner.

AMENDMENT TO THE CLAIMS

This listing of claims will replace all prior versions of claims in the application.

Listing of Claims:

1-47 (Cancelled)

48. (New) A method for treating a human patient suffering from stroke, said method comprising administering to said patient directly at the site of said stroke isolated human Lin-cells from umbilical cord blood (UCB) or peripheral blood, wherein the administration of said cells results in measurable stroke recovery in said patient.

49. (New) The method of claim 48, wherein the cells are isolated from UCB.

50. (New) The method of claim 48, wherein the cells are isolated from peripheral blood.

51. (New) The method of claim 48 further comprising concurrently with or following administration of said cells administering a growth factor to said patient.

52. (New) The method of claim 51, wherein the growth factor is selected from the group consisting of oncostatin M, FGF, neurotrophin, IGF, CNTF, EGF, TGF-beta, LIF, interleukins, PDGF, and VEGF.

53. (New) The method of claim 48, wherein said cells are allogeneic cells.

54. (New) The method of claim 48, wherein said cells are autologous cells.

55. (New) The method of claim 48, wherein the cells are characterized as negative for expression of CD2, CD3, CD14, CD16, CD19, CD24, CD56, CD66b, and glycophorin A, and positive for expression of flk-1, CD45, CXCR4, and MDR.

REMARKS

No new matter has been added by the present amendment.

If there are any charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date: _____

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